

AGENDA

TUSAYAN TOWN COUNCIL MUNICIPAL CODE WORKSHOP

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, August 13, 2014 at 5:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town Council will hold a Meeting and Municipal Code workshop open to the public on Wednesday, August 13, 2014 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting the Town Manager at (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

TOWN COUNCIL MUNICIPAL CODE WORKSHOP

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. ROLL CALL

**MAYOR GREG BRYAN
VICE MAYOR AL MONTOYA**

**COUNCILMEMBER BILL FITZGERALD
COUNCILMEMBER JOHN RUETER
COUNCILMEMBER CRAIG SANDERSON**

** One or two Councilmembers may attend by telephone*

3. DISCUSSION OF DRAFT LANGUAGE FOR THE TUSAYAN MUNICIPAL CODE

Chapter 9 – Business Regulations (continued)

4. MOTION TO ADJOURN

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this _____ day of August, 2014, at _____ pm in accordance with the statement filed by the Tusayan Town Council

Signature of person posting the agenda

CHAPTER 9

BUSINESS REGULATIONS

Article 1 Business Licenses

Article 2 Temporary Business Licenses

Article 1

Business Licenses

9-1-1 License required

9-1-2 Purpose

9-1-3 Issuance of Business License

9-1-4 Payment of License Fee

9-1-5 Posting of Business License

9-1-6 License Not Transferable

9-1-7 Exemptions

9-1-8 Business License Revocation

9-1-9 Revocation - Compliance Procedure

9-1-10 Appeal Hearing

9-1-11 Violation - Penalty

Section 9-1-1 License Required

It is unlawful for any person, firm, organization, corporation or other entity to engage in business within the corporate limits of the Town, unless exempted, without having procured a license from the town in compliance with the provisions of this chapter. When a business may be classified under more than one (1) trade, profession or occupation only one (1) license shall be required.

Section 9-1-2 Purpose

The Council has determined that it is in the best interest of the public to maintain a list of business activities within the Town to provide contacts for emergency services, directories, compliance with zoning codes, building and fire codes, taxes, other utilities such as water, gas, electric, and sewer, and other ordinances and statutes.

Section 9-1-3 Issuance of Business License

- A. It is the duty of the Town Clerk to prepare and issue a Business License under the terms of this article for every person, firm, company, or corporation required to buy a license hereunder.
- B. Every person desiring a license to carry on any trade, profession, occupation or business shall make application to the Town Clerk, upon application forms furnished by the clerk, and no licenses shall be issued or granted until the amount required has been paid to the clerk. Verification of possession of a transaction privilege tax identification number as issued by the State of Arizona Department of Revenue is required.
- C. The Town Clerk shall keep a register of the names of each and every person licensed, the date of the license, the purpose for which granted, the amount paid therefor, the date the same shall expire, and the address to which notices under this article may be mailed.

- D. No license shall be granted for a greater period than one (1) year, and all annual licenses shall expire as of June 30th succeeding the date of issuance.
- E. Prior to issuance of a business license, the Town Clerk shall verify the location and type of business with the appropriate zoning official to receive a zoning clearance before a business license is issued. Any exceptions to the license stated by the zoning officials are grounds for the denial of the business license by the Clerk.

Section 9-1-4 Payment

- A. All business license fees required by this chapter shall be payable in advance to Town Clerk. Annual license fees shall be due and payable on the first day of July each year.
- B. All trades, professions, occupations or businesses listed hereunder shall pay a license fee specified in the Town of Tusayan's Fee Schedule available from the Town Clerk and posted on the Town's website.
- C. If licensee fails to acquire a business license within thirty (30) days of renewal due date, the town has the right to revoke the business license.
- D. License renewal reminders will be mailed out on or near May 15th of each year. Licenses shall become delinquent after July 15th of each year and a second renewal notice will be mailed. A third and final certified mailing notice shall be sent on or near July 31st, after which time the business will be subject to business license revocation. Should any of these dates fall on a weekend or holiday, the observed date shall become the following first business day.
- E. If any persons shall conduct any trade, profession, occupation or business requiring a license at a different location(s) within the town, each location shall be treated as a separate business for the purpose of this chapter and such person shall take out a license for each place where such business is conducted.
- F. When more than one (1) trade, profession, occupation or business is carried on, transacted or practiced by the same person, corporation or partnership at one (1) fixed place of business, only one (1) license and only one (1) charge shall be required. All trades, professions, occupations or businesses shall be listed on the license.
- G. When any license fee provided for herein shall become delinquent (July 15) the Town Clerk shall a penalty defined in the Town's Fee Schedule. No license shall be issued by the Town Clerk until the license fee and delinquent penalty added thereto have been paid in full.

Section 9-1-5 Posting of Certificate

Every person, firm, company, or corporation, having a business license under the provisions of this chapter and carrying on a trade, profession, occupation or business at a fixed place of business shall keep such license posted and exhibited, while in force, in some conspicuous part of the place of business. If the business is conducted at different locations within the town, each location shall have the license posted. Every person having such business license and not having a fixed place of trade, profession, occupation or business shall carry such license with him or her at all times while carrying on that trade, profession, occupation or business for which the same was granted. Every person, firm, company or corporation having a license under the provisions of this chapter shall produce and exhibit the same, when applying for a renewal thereof, and whenever requested to do so by any law enforcement officer or other officer authorized to issue, inspect or collect licenses.

Section 9-1-6 License not Transferable

No business license issued under the provisions of this chapter shall be in any manner assignable or transferable to any other person, firm, company, or corporation other than is herein mentioned or named, without permission from the town.

Section 9-1-7 Exemptions

- A. All government, religious, charitable, and civic organizations are exempted from the provisions of this chapter. Charitable, civic or merchant organizations inviting or causing a for-profit entity to engage in business for a limited time may apply for an exemption for that entity. The Town Clerk, with the approval of the Town Manager, may, but shall not be required to, grant such exemption.
- B. Professionals employed by and working exclusively for a licensed or exempt entity shall not be required to pay a separate license fee. Any exempt person or entity may be required by the Town Clerk or Town Manager to file an application to provide the information desired for town services and planning.

Section 9-1-8 Business License Revocation

Any business license issued under the provisions of this code may be revoked as provided in this section. Any of the following shall constitute grounds for revocation of a business license.

- A. Revocation of any state, county or town license or permit that is required for the operation of business.
- B. Conviction of the licensee or any of its owners, managers or employees and in the case of a corporation, any of its principal officers, directors and principal shareholders by a court of competent jurisdiction of any felony for violation of laws or regulations related to the operation of the business for which the license is obtained under this chapter is cause for revocation of the business license.
- C. Adjudication in any civil action or administrative proceeding in any jurisdiction, that the licensee or any of its owners, managers or employees, and in the case of a corporation, its principal officers, directors or principal shareholders, are responsible for any violation of any law or regulation related to the operation of the business for which the license is obtained under this chapter.
- D. The licensee is delinquent in payment of any privilege license taxes or use taxes owed to the town and has not, upon reasonable notice, made such payment together with any applicable interest and penalties.
- E. The Town Manager or his/her designee based upon reasonable information and belief finds that unlawful conduct by a minor(s) or adults has occurred at the business and that the licensee has failed to undertake adequate measures to prevent such unlawful conduct.
- F. The Town Manager or his/her designee finds that the licensee has made a false statement on or in connection with license application.
- G. If licensee fails to acquire a business license within thirty (30) days of renewal due date, the town has the right to revoke this business license.

Section 9-1-9 Revocation - Compliance Procedure and Appeal

Following the Town Manager or his/her designee's notice of revocation pursuant to subsection 9-1-8, the Town Clerk shall give the licensee notice by registered mail a statement of the purported reason for the revocation. Within the next five (5) working days the licensee shall submit to the Town Clerk evidence that the revocation occurred in error. If the Town Clerk determines by a preponderance of all information presented, that there is a good and sufficient reason for revocation of the licensee's license, the Town Clerk shall enter an order revoking the license effective immediately and notify the licensee by registered mail.

Section 9-1-10 Appeal Hearing

Within five (5) working days, excluding weekends and legal holidays, an applicant for a license or a licensee may appeal to the Town Manager, from either the refusal of the Town Clerk to issue a license under this chapter, or from the revocation of any license granted in accordance with this chapter. The licensee shall have the right to be represented by counsel at his or her own expense, to introduce witnesses on his or her behalf at his or her own expense, and to have the testimony given at the hearing recorded.

Section 9-1-11 Violation - Penalty

It is unlawful for any person, firm, company, or corporation to commence, transact, or engage in any business for which a license is required by this chapter within the town without first having obtained a license from the town. Failing to comply with this license requirement or any other requirement of this chapter, shall be deemed guilty of a class two (2) misdemeanor, and shall also be compelled to pay the amount of license chargeable against that business. Violations shall be punishable with each day that such business is practiced, transacted or carried on constituting a separate offense. It shall be the duty of any authorized personnel or Officer of the Town to enforce the provisions of this chapter.

Article 2

Temporary Business License

9-2-1 Definitions

9-2-2 License Required

9-2-3 Exemptions

9-2-4 Applications

9-2-5 Licensing and Fees

9-2-6 License to be posted

9-2-7 Location Restrictions

9-2-8 Undue Noise Prohibited – Hours of Operation

9-2-9 Enforcement Provisions

9-2-10 Revocation

9-2-11 Signs to be Observed

Section 9-2-1 Definitions

"Producer" includes owners, proprietors, tenants of agricultural lands, orchards, farms and gardens whereon food products are grown, raised, or prepared for market, "food product" includes every product of the soil in its natural or manufactured state, including, without limitation, beef, beef products, swine and pork products, fowl and poultry products, eggs and egg products, milk and milk products, honey, and lamb and sheep products.

"Special Event" includes the temporary sales and displays by street vendors, craft shows, fair booths, and similar operations usually associated with a special event or holiday.

A "temporary business" is a business that operates from a temporary location or structure within the town limits. "Temporary businesses" shall include peddlers, solicitors and transient merchants.

Section 9-2-2 License Required

It is unlawful for any person, firm, company, or corporation, to carry on any trade, profession, occupation or business within the town limits specified in this chapter, unless exempted, without having procured a license from the town.

Section 9-2-3 Exemptions

- A. Activities required by statute or by order of any court
- B. Bona fide auction sales pursuant to Arizona law
- C. Religious, political, or nonprofit organizations, as recognized by internal revenue service (must provide documentation)
- D. School and youth activities (i.e. boy scouts, girl scouts, church clubs, youth sports groups, etc.).
- E. Fund raising activities intended to provide financial assistance to the gravely ill, to assist the victims of crimes, disasters, or the less fortunate, for the construction of a community facility, etc.
- F. Governing agencies (federal, state, county, city or town)

- G. Outdoor sales or activities being conducted on a property directly related to the primary sales of a business located on the same property (though, activity shall be subject to zoning compliance)
- H. Any business or vendor that is participating in a community-wide special event activity that is sponsored by the town or a private (non-public) organization. However, a vendor who does not have a permanent Tusayan business license must obtain a temporary business license for special events pursuant to the Town of Tusayan special event policy.
- I. Producer of farm products on agricultural lands, farms, and gardens.
- J. Activities intended to increase public awareness of public programs.

Section 9-2-4 License Application

A. Applicants for a license under this chapter must file with the Town Clerk an application in writing on a form to be furnished by the Clerk that may contain, but not necessarily be limited to, the following information:

- 1. Name and description of the applicant;
 - 2. Complete address (physical and mailing);
 - 3. A brief description of the nature of the business and the goods or services to be sold, and in the case of products of farm or orchard, whether produced or grown by the applicant;
 - 4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 - 5. The length of time for which the right to do business is desired;
 - 6. A current driver's license or a photograph of the applicant;
 - 7. A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor, or violation of any municipal laws and the nature of the offense and the punishment or penalty assessed therefore.
 - 8. References with contact names and numbers from communities or areas in which applicant has conducted similar business activities and statements indicating any suspension or revocation of a business license, which is grounds for denial of the license by the clerk;
 - 9. Verification of a Transaction Privilege Tax License as issued by the State;
 - 10. If operating from a specific location (i.e. retail parking lot) and not door-to-door, original written and signed letter of consent from the property owner of record permitting the activity or event.
 - 11. If a vehicle is to be used, a complete description, including make and model, license plate number, vehicle identification number, and other identifying characteristics of all vehicles that will be used in the business
 - 12. Prior to issuance of license the Town Clerk shall verify the location and type of business with the appropriate town zoning official. Any exceptions to the license by the zoning official may be grounds for the denial of the license by the clerk.
 - 13. Copies of any necessary health or other regulatory permits required by law.
- B. No license issued hereunder shall be transferable.

Section 9-2-5 Licensing and Fees

Fees

The license fee for a temporary business license shall be specified by the Town's Fee Schedule and valid during any one quarter ($\frac{1}{4}$) of the fiscal year. The fee shall be paid in advance of receiving the license. The amount of any fee in this chapter may be changed by resolution of the Town Council. No fee shall be required of any person, agency, or agent conducting a activity eligible for an exemption per Section 9-2-3.

License

The clerk shall have up to five (5) working days in which to respond to check references, applicant's background and application information. Following a clean reference and background check and payment of license fees, the clerk shall issue a temporary business license for a period not to exceed any one quarter ($\frac{1}{4}$) of the fiscal year.

Section 9-2-6 License to be Posted

The license issued by the Clerk shall be posted in a conspicuous place if the licensee is using a vehicle or a building in his business and otherwise must be kept by the person conducting the business activity and exhibited at any time upon request by law enforcement or authorized official. The licensee shall provide any persons working in connection with or for the licensee a copy of the license which must be kept by the person and exhibited at any time upon request. No temporary business license issued hereunder shall be transferable.

Section 9-2-7 Location Restrictions

No licensee shall have any exclusive right to any location in a public area, nor shall any be permitted a permanent location, nor within three hundred (300) feet of a public school ground, nor shall licensee operate in any congested area where such operation might impede or inconvenience the public or cause traffic or parking hazards. The judgment of a law enforcement officer or authorized town official exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. No business activity shall be conducted in any area of the town where such business activity is prohibited by the town zoning code. No business activity shall be carried on in any area or location not authorized under the conditions of the license.

Section 9-2-8 Undue Noise Prohibited – Hours of Operation

No licensee, nor any person on the licensee's behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell upon any of the streets, alleys, parks or other public places of the town or upon any private premises in the town where sound is of sufficient volume to be unreasonably loud, disturbing or that is capable of being plainly heard upon the public thoroughfares. Licensees, agents and employees of licensees shall not conduct any business activity between the hours of eight (8) p.m. of any day and the hour of eight (8) a.m. of the following day.

Section 9-2-9 Enforcement Provisions

It shall be the duty of any law enforcement officer or authorized town official to enforce the provisions of this article and to report violations of this chapter to the Town Clerk.

Section 9-2-10 Revocation

The Clerk, after notice for any of the following causes may revoke permits and licenses issued under the provisions of this chapter:

- a) Fraud, misrepresentation, or false statement contained in the application for license;
- b) Fraud, misrepresentation, or false statement made in the course of carrying on business;
- c) Any violation of this article; and
- d) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

Section 9-2-11 Signs to be Observed

It is unlawful for any licensee, in the course of his or her business, to ring the doorbell or knock at any building whereon a sign bearing the words "No Peddlers," "No Solicitors," "No Canvassers," "No Transient Merchants," or a similar message is exposed to public view.